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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,491	09/21/2006	Giuseppe Scuzzo	118.038US01	2088
27073 7590 09/11/2007 LEFFERT JAY & POLGLAZE, P.A. P.O. BOX 581009 MINNEAPOLIS, MN 55458-1009			EXAMINER SINGH, SUNIL K	
			ART UNIT 3732	PAPER NUMBER
			MAIL DATE 09/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,491

Applicant(s)

SCUZZO, GIUSEPPE

Examiner

Sunil K. Singh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,15 and 17-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,15 and 17-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference Numeral "20". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

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3. The abstract of the disclosure is objected to because it contains the legal phraseology "comprising". The Examiner suggests to amend the term "comprising" to state --including--. The abstract is also not in a separate sheet. Correction is required. See MPEP § 608.01(b).

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

4. The disclosure is objected to because of the following informalities: The specification lacks the proper headings.

Appropriate correction is required.

Claim Objections

5. Claim 24 is objected to because of the following informalities: Claim 24 has 1/1.2 mm. It seems that this is a typo and applicant intended "1-1.2 mm". Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 15 and 17-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the latter" in Line 13. There is insufficient antecedent basis for this limitation in the claim, and it is not clear to what applicant is referring to.

In Claim 22, it is unclear to what is meant when the applicant claims a retaining member that is arranged "superiorly" to the tabs of said plurality, and in what way it is "superiorly" with respect to the tabs.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1,15,17,19,21-23, and 25-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Broussard (US 4,917,602).

Broussard discloses an orthodontic bracket (150) that includes: a base (158) capable of being fastened on the lingual side of a tooth (Column 11, Lines 58-59); a main body raising from the base (Figs. 1-3) being constructed in a single piece with the base having a plurality of projecting engaging tabs (179) capable of engaging and retaining a binding system (169) (Figs. 5 and 6); a housing (Figs. 1-7) for an orthodontic wire (151) that extends along the dental arch (Figs. 6-8); housing being interposed between tabs (Figs. 1-8) and inclined so to form an acute angle with respect to the base (Figs. 2, 14) and is opened towards a bottom of the tooth when the bracket is fastened onto the inclined lingual side of the tooth; a retaining member (163) that faces the housing and extends along a limited segment; the retaining member abuts the orthodontic wire (Figs. 6-12); wherein the retaining member having a rounded profile and is in the form of a projecting fin (Fig. 3); the retaining member is in a centered position relative to the housing (Fig. 3) and arranged superiorly to the plurality of tabs (179) (Figs. 1-3); the retaining member is constructed in a single piece with the remaining part of the bracket (Fig. 3); wherein the plurality of tabs (179) comprises a first, a second, and a third tab (Fig. 3); wherein the first and second tabs being arranged at the opposite side of the housing with respect to third tab (Fig. 3); wherein the retaining member (163) is arranged between the plurality of tabs (179) and oriented in an opposite direction thereto (Figs. 3,5-8,12); wherein the housing (155) is in the form of a groove extending transversely relative to base; and wherein the housing is defined

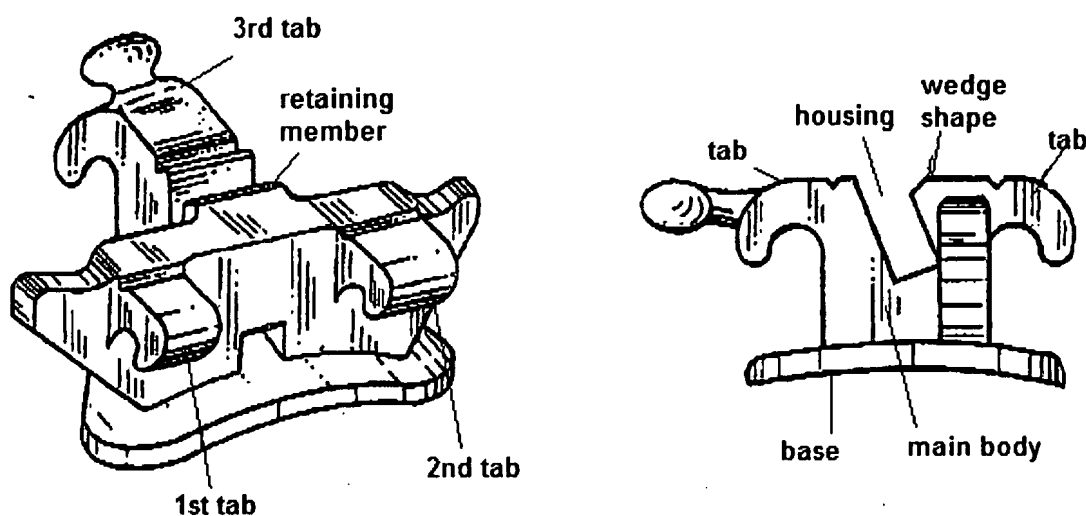
by two or more walls set longitudinally side by side (Figs. 1,2,3,14). Broussard further discloses an orthodontic implant that comprises an orthodontic bracket as described above (Figs. 5-8).

10. Claims 1,17-22, and 25-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Viazis (US D367116).

Viazis discloses an orthodontic bracket (Figs. 1-20) that includes: a base (see Figs. 2 and 4 that are reproduced below); a main body (see Fig. Below) raised from base constructed in a single piece with the base having a plurality of projecting engaging tabs (Fig. Below) that are capable of engaging and retaining a binding system; a housing (Fig. Below) for an orthodontic wire, the housing being interposed between the tabs and inclined so to form an acute angle with respect to the base (see Fig. 2); the acute angle opening towards a bottom of the tooth when the bracket is fastened onto the inclined lingual side of the tooth; a retaining member (see fig. Below) that faces the housing and extends only along a limited segment of the latter and is capable of abutting against the arch wire (See Figs. 2 and 4); wherein the retaining member is in the form of a projecting fin having a substantially wedge shaped profile (see Fig. Below); the retaining member is in a centered position relative to the housing; the retaining member is integral with the remaining parts of the bracket (Figs. 2,4); the retaining member constructed in a single piece with the remaining part of the bracket itself (See Fig. Below); the retaining member is arranged superiorly to the tabs (Fig. 4); wherein the plurality of tabs comprises a first, a second, a third tab (Fig. Below) and having a rounded profile; wherein the first and second tabs are arranged at the opposite side of

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the housing (Fig. Below); wherein the retaining member is arranged between the first and second tab and is oriented in the opposite direction (Fig. Below); wherein the housing is in the form of a groove extending transversely relative to the base; and wherein the housing is defined by two or more walls set longitudinally side by side, having a cross section with a broken-line profile (Figs. 2,4,8,9,11,15,16,18).



Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Viazis (US D367, 116).

Viazis discloses the invention substantially as claimed except for a bracket having a thickness, defined between the base and retaining member, in an interval of

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about 1-1.2mm. However, it would have been obvious to modify Viazis to include a bracket having portion between the base and retaining member to have a thickness of 1-1.2mm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. See *In re Aller*, 105 USPQ 233.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 Form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil K. Singh whose telephone number is (571) 272-3460. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris L. Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

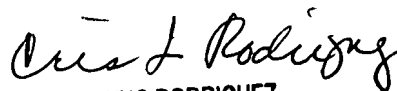
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Sunil K Singh
Examiner
Art Unit 3732

SKS
08/22/2007



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